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KANE | KESSLER

KANE KESSLER, P.C.
666 THIRD AVENUE
NEW YORK, NEW YORK 10017-4041
TEL 212.541.6222
FAX 212.245.3009

WWW.KANEKESSLER.COM
WRITER'S DIRECT NUMBER
212.519-5162
WRITER'S EMAIL
Jschmalz@kanekessler.com

April 1, 2020

MEMO ENDORSED

Via ECF and Email: ALCarterNYSDChambers@nysd.uscourts.gov

Hon. Andrew L. Carter, Jr., U.S.D.J.

United States District Court

Southern District of New York

40 Foley Square, Room 435

New York, New York 10007

**Re: *David Heard v. Statue Cruises*, 2016 CV 01079 (ALC)(BCM)
Joint Letter Regarding the Filing of Pre-Motion Letters and Schedule**

Dear Judge Carter:

On March 18, 2020, the Honorable Barbara Moses, U.S.M.J., issued a Decision and Order directing the parties in this action to submit a joint letter to you, no later than April 1, 2020, proposing a schedule for the filing of pre-motion letters regarding summary judgment and/or a joint pretrial order in accordance with your Individual Practices §§ 2(A), 4(A). This letter constitutes such correspondence.

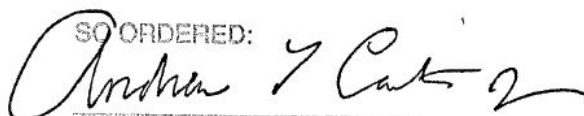
On March 24, 2020, the undersigned counsel conferred by telephone on this subject. Ms. Schmalz advised Mr. Litt that Statue Cruises intends to file a motion for summary judgment. Mr. Litt indicated Plaintiff's counsel was still considering whether Plaintiff intended to file such motion and, due to the circumstances related to COVID-19, he was unable to access files in his office needed to make such determination. Ms. Schmalz noted that as a practical matter she too cannot access her office and case files at this time.

We agreed to jointly request an extension of time for counsel to propose a schedule to the Court for pre-motion letters until the earlier of 1) two weeks after the NYS PAUSE order expires and we are permitted to return to the workplace; or 2) when we are no-longer deemed non-essential and regain access to our New York City offices and case files. We understand the Court is operating on a limited basis at this time as well. We appreciate your consideration of this request and will await further instruction from the Court.

Respectfully submitted,

/s/Jennifer M. Schmalz, Kane Kessler P.C.
Counsel for Defendant Statue Cruises

/s/Marc Litt, Wachtel Missry LLP
Counsel to Plaintiff David Heard

SO ORDERED:

HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE